

4. Written notice of the filing of this Notice of Removal is being given to Plaintiffs and a copy of this Notice of Removal is being filed with the Massac County Clerk of Court pursuant to 28 U.S.C. §1446(d).

5. Copies of all known process and pleadings served upon Defendants are filed contemporaneously with this Notice of Removal in accordance with 28 U.S.C. §1446(a). See Exhibit A.

C. There is Diversity Among The Parties

6. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §1332(a) and removal to this Court is proper pursuant to 28 U.S.C. §1441(b)(2) because Defendants are not citizens of this State, and there is complete diversity of citizenship between all parties.

7. Upon information and belief, Plaintiffs Nick Cowser and Laura Potts-Cowser are citizens of the State of Illinois.

8. Defendant Fresno Lundy is a citizen of the State of Georgia.

9. Upon information and belief, Defendant Lundy Trucking, L.L.C. is a limited liability company organized and existing under the laws of the State of Georgia, with its principal place of business in the State of Georgia. Therefore, Defendant Lundy Trucking, L.L.C. is a citizen of the State of Georgia.

D. The Amount in Controversy Exceeds \$75,000

10. The amounts in controversy for Plaintiffs' claims, exclusive of interest and costs, exceed \$75,000.00 as required by 28 U.S.C. §1332(a).

11. "If removal of a civil action is sought on the basis of the jurisdiction conferred by section 1332 (a), the sum demanded in good faith in the initial pleading shall be deemed to be the

amount in controversy, *except that* – (A) the notice of removal may assert the amount in controversy if the initial pleading seeks – (ii) a money judgment, but the State practice either does not permit demand for a specific sum or permits recovery of damages in excess of the amount demanded.” 28 U.S.C. §1446(c)(2)(A)(ii).

12. In Illinois, a prayer for relief in an action for injury to the person shall not plead *ad damnum* “except to the minimum extent necessary to comply with the circuit rules of assignment where the claim is filed.” 735 ILCS 5/2-604.

13. Plaintiffs allege in their Complaint that they were caused to sustain injuries and damages in excess of \$50,000. See Exhibit A.

14. “A removing party need not show that the plaintiff will prevail or collect more than \$75,000 if he does. The burden, rather, is to show what the plaintiff hopes to get out of the litigation; if this exceeds the jurisdictional amount, then the case proceeds in federal court unless a rule of law will keep the award under the threshold.” *See e.g. Rising-Moore v. Red Roof Inns, Inc.*, 435 F.3d 813, 816 (7th Cir. 2006).

15. Here, Plaintiffs allege that they were injured in an automobile accident after being hit by a tractor-trailer, causing disabling injuries. Specifically, Plaintiffs have each alleged that, as a result of the accident, they:

- a. were “made sick, sore lame, disordered and disabled and suffered extensive injuries...both internally and externally;”
- b. have “expended money for necessary medical care, treatment and services and will be required to expend money for medical care, treatment and services in the future;”
- c. have “suffered disability as a result of [their] injuries;”
- d. have “experienced pain and suffering and will be reasonably certain to experience pain and suffering in the future as a result of the injuries;” and,
- e. have lost money from the loss of wages and will suffer an impairment of future earning capacity.”

See Exhibit A. In light of these allegations, a good faith estimate of the amount in controversy for each Plaintiff exceeds \$75,000, exclusive of interest and costs, and it is not legally certain that the amount in controversy is less than \$75,000.

16. Further, “[w]here the other elements of jurisdiction are present and at least one named plaintiff in the action satisfies the amount-in-controversy requirements [28 U.S.C. §1367] does authorize supplemental jurisdiction over the claims of other plaintiffs in the same Article III case or controversy, even if those claims are for less than the jurisdictional amount specified in [28 U.S.C. §1332(a)].” *Exxon Mobil Corp. v. Allapattah Services, Inc.*, 545 U.S. 546, 549 (2005).

WHEREFORE, Defendants Fresno Lundy and Lundy Trucking, L.L.C. remove this case to the United States District Court for the Southern District of Illinois and hereby request that the filing of this Notice of Removal shall effect the removal of said civil action to this Court.

/s/ Kevin L. Fritz

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Lundy Trucking, L.L.C.*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing pleading was served via the Court's electronic filing system on September 11, 2019, upon: Thomas C. Rich, Rich, Rich, Cooksey & Chappell, P.C., 6 Executive Drive, Suite 3, Fairview Heights, IL 62208, Attorneys for Plaintiffs.

/s/ Kevin L. Fritz

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